

### **REMARKS/ARGUMENTS**

Claims 1-27 were presented for examination and were pending in this application. In an Official Office Action dated May 9, 2005, claims 1-25 were rejected and claims 26 and 27 were objected to. The Applicants thank the Examiner for examination of the claims pending in this application and address the Examiner's comments below.

Applicants herein amend claims 1, 13-16, 20, 24, and 26-27. Claims 19, 21-22, and 25 are canceled without prejudice and no new claims are presently added. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution of the application. In making this amendment, Applicants have not and do not narrow the scope of the protection to which the Applicants consider the claimed invention to be entitled and does not concede that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seek to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicants respectfully request that Examiner reconsider all outstanding rejections and withdraw them.

#### **I. Claim Objections due to Informalities**

Claims 13-23, 25-27 were objected to because of informalities. Specifically the Examiner objected to claims 25's (now rewritten as claim 26) use of the word "priority" when used in the phrase "tracking the priority values associated with individual resources requested by the user." The Examiner asserts that use of the word "priority" is not clearly understood because priority is

used for reflecting the status of precedence in a competitive environment. To clarify the Applicants' intended meaning the claims have been amended to read "content priority" rather than just "priority." Support of the use of the term "content priority" is found generally on page 6 of the specification.

The Examiner further objects to claim 27 indicating that the claim element stating, "based ... upon the number of resources that are requested that are secure and unsecure" is unclear. The claim has been amended to clarify the meaning. Claim 27 now reads, "based at least partially upon the number of resources that are requested that are secure and the number of resources that are requested that are unsecure."

Claims 13, 19 and 20 were objected to for using the word "converting." Claim 19 has been canceled in this action. The Examiner comments that the term "converting" is confusing because a parameter is like an attribute or variable which can be associated with a value through assignment, not conversion. Claims 13 and 20 have replaced the term "converting" with the more accurate term "assigning."

The Applicants thank the Examiner for his comments and analysis with regard to the claims and respectfully submit that the claims now clearly define the present invention and request the objections be withdrawn.

#### **I. Rejections under 35 U.S.C. §102**

Claims 1-18 and 2-24 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6259682, ("Ellesson"). Applicants respectively traverse these rejections in light of the following remarks and respectfully request reconsideration.

MPEP §2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053(Fed. Cir.1987). “The identical invention must be shown in as complete detail as contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The claims as currently amended recite features lacking in the applied reference. For example, independent claim 1 now recites, among other things, “associating a priority value with each of the at least one set of information based on the at least one priority parameter, tracking the priority values associated with each of the at least one set of information requested by a user, and transmitting the at least one set of information across the network at least partially based on the priority value of each of the at least one set of information requested by the user determined from the at least one priority parameter.” Ellesson does not expressly or inherently disclose tracking priority values associated with a set of information requested by a user nor does Ellesson disclose transmitting information across the network based, at least partially, on the priority value of the information the user is requesting.

Ellesson appears to disclose an architecture (SLA architecture) which organizes the key components, the specific function placements and communication mechanisms, so as to enable efficient means of implementing new tools to facilitate both development and enforcement of an SLA. Ellesson does not associate priority values with sets of information based on priority parameters, track the priority values of those sets of information requested by a user, and then transmit the sets of information based, at least partially, on the

priority values of the sets of information requested by the user. Ellesson provides an overall structure and architecture but does not address the significance of a user's request in determining the transmission priority of a set of information.

As each and every element in newly amended claim 1 is not described, either expressly or inherently, by Ellesson, claim 1's rejection under 35 U.S.C. §102(e) must fail. The Applicants respectfully request that the Examiner withdraw the rejection of claim 1. Claims 2-12 depend from claim 1 and are, for at least the same reasons, not anticipated by Ellesson. Accordingly the Applicants respectfully request the withdrawal of the rejection of claims 2-12. For at least the same reasons, the Applicants submit that amended claims 13, 20 and 24 are not anticipated by Ellesson. Claims 14-18, and claim 24 depend from claim 13 and claim 20 respectively and are, for at least the same reasons, not anticipated by Ellesson

## **II. 35 U.S.C. §103(a) Obviousness Rejection of Claims**

Claims 19 and 25-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ellesson as applied to claims 1-18 and 20-24. Claims 19 and 25 have been canceled without prejudice. With respect to pending claims 26 and 27, the Examiner objected to the claims but indicated that they would be allowable if rewritten in independent form including all of the limitations of the base claims, and if rewritten or amended to overcome the informalities set forth in the pending office action, respectively. The Applicants thank the Examiner for identifying allowable subject matter in these two claims. Claim 26 has been amended in this action and is rewritten in independent form including all of the limitations of the base and intervening claims. Claim 27 has been amended to overcome the informality set forth in the Office Action dated May 9, 2005. Accordingly the Applicants submit that claims 26 and 27 are in condition for

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allowance and respectfully request that the rejection be withdrawn and the claims allowed.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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